

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

MITCHELL TODD GARDNER, II

Defendant.

Case No. 21-cr-622-APM

**GOVERNMENT'S MOTION FOR AN ACCOUNTING OF
THE FUNDS RAISED BY THE DEFENDANT**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully moves for an accounting of money the defendant has raised in connection with this case.

It has come to the government's attention that the defendant has set up a GiveSendGo account.¹ The website indicates the money is "to pay his lawyer, support his kids and grandparents, and get his life back together." Thus far, approximately \$14,000 has been raised. The government seeks an accounting of all the money that was raised, including who the money came from and on what it was spent. Depending on what that accounting shows, the government may seek a fine in the amount of the money that was raised.²

In support of this motion, the government submits that the defendant's Guidelines presume that he should pay a fine. See Presentence Investigation Report ("PSR") ¶ 150 (noting Guidelines fine range between \$20,000 and \$200,000). In determining whether to impose a fine, the court should consider, *inter alia*, the defendant's income, earning capacity, and financial

¹ <https://www.givesendgo.com/FreeGardner>

² Judge McFadden required a similar accounting in *U.S. v. Mehaffie*, 21-cr-40.

resources, as well as whether a defendant has sought to “capitalize” on a crime that “intrigue[s]” the “American public.” *See* 18 U.S.C. § 3572(a)(1); U.S.S.G. § 5E1.2(d); *United States v. Seale*, 20 F.3d 1279, 1284-86 (3d Cir. 1994). Although the PSR concluded that the defendant does not have the ability to pay a fine, *see* PSR at ¶ 117, it is unclear if the PSR author was aware of the money raised by the defendant through the GiveSendGo account. The defendant under any circumstances, should not be permitted to profit from his criminal conduct.

Respectfully submitted,

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